

# **THE LEONARD LETTER**

*A weekly electronic newsletter about  
California government, business and taxes*

*Bill Leonard, Member  
State Board of Equalization*

*June 4, 2007*

## **QUOTE OF THE WEEK**

*"Government's view of the economy could be summed up in a few short phrases: If it moves, tax it. If it keeps moving, regulate it. And if it stops moving, subsidize it." --- Ronald Reagan*

## **AROUND THE STATE**

### **\*\*\*Condolences\*\*\***

My deepest sympathies to Ms. Rinda Pope, a Board of Equalization employee, whose son Alex was killed on May 19 in Baghdad. Alex Varela was a nineteen year-old Private 1<sup>st</sup> Class in the United States Army. Remembrances can be made in his honor at <http://www.taps.org/>

### **\*\*\*True Believers Take Out Nuclear Power's Competition\*\*\***

In case you missed it, a couple weeks ago the California Energy Commission unanimously approved rules that will forbid municipal utilities, including the Los Angeles Department of Water and Power, from buying electricity made from coal. Identical regulations were imposed on private utilities in January. This implements SB 1368 (Perata), which prohibits the state's publicly owned utilities from entering into long-term financial commitments with plants that exceed 1,100 pounds of carbon dioxide (CO2) per megawatt hour. This also follows AB 32 (Nunez) that requires California to reduce emissions of carbon dioxide and other gases by 25 percent by 2020.

On one hand this policy is a short-sighted price penalty on consumers. America has lots of coal and the industry is rapidly making coal-to- electricity conversion cleaner and more efficient. But coal is not a zero emission fuel source. True believers of the need to drastically cut back on emissions that cause global warming have no choice but to ban coal everywhere they can. And, we learned last month they do not care for liquefied natural gas either. On the other hand, by going after cheap and available fuel sources the environmentalists accelerate the need for nuclear power with every victory.

Let me offer an inconvenient truth: California has a growing population and growing economy. California consumers will consequently demand more electricity. This demand will be reflected in the market and in the political arena.

This is a dangerous game for our political leaders. If they think Californians are going to casually bake in 100-degree summer heat with no air conditioning, they will be surprised by the push-back from a public more concerned with how warm they are now than how warm the world might become in a hundred years -- maybe.

## **UNDER THE DOME**

### **\*\*\*Perata and Nunez Should Back PUC Decision\*\*\***

The Public Utilities Commission voted 4-1 to examine whether to allow consumers “direct access” to electricity providers. The Democrat leaders of the Legislature have sent a letter to the commission questioning the PUC’s authority. I say they should reconsider their position. The benefits of direct access are such that the Democrats have an opportunity to be public heroes rather than obstructionists.

First of all, direct access is not deregulation. Deregulation is ending monopolies, but nobody is proposing to end monopolies. Second, why should a producer of electricity be forced to sell to only one customer, namely the local monopoly utility? Direct access would allow the producer to sell directly to an end user like a manufacturing company or your home. By providing choices, competition is enhanced; by sharpening competition, the consumer benefits in pricing. It is called free enterprise. Utilities have a government pass that shields them from competition. This is corporate socialism and we should all be against it.

More on this later.

## **ISSUE FOCUS**

### **\*\*\*Free Market Better Than Litigation\*\*\***

The Board is being sued by Santa Clara County because they think flavored beers should be taxed at the distilled spirits tax rate (\$3.30 a gallon) instead of the beer tax rate (\$.20 a gallon). The Board’s perspective is that these terms are defined by law. The law requires the Department of Alcohol Beverage Control to classify alcohols, and that department and the federal government have appropriately chosen to tax flavored beers according to the legal definitions.

A couple weeks ago, the San Francisco Chronicle editorialized against the Board’s position. However, they made the unfortunate charge that these flavored beers (“alcopops”) contain “distilled spirits.” This is not correct and I am grateful they printed my letter explaining that these products may contain distilled alcohol, but not distilled spirits. “Distilled spirits” is a specific legal term that describes hard liquor, such as whiskey and gin. Distilled alcohol is a generic term that refers to any alcohol that has been boiled. The term distilled spirits applies

only to beverages, but distilled alcohol is included in many other products, including flavorings, colorings, solvents, cough syrup, etc. For instance, pure vanilla extracts must contain at least 35% alcohol per FDA requirements. Thus, it is fair to say that chocolate chip cookies contain distilled alcohol.

Some people are concerned that there is something worse about having boiled (distilled) alcohol in a product instead of alcohol that has not been boiled. But chemically there is no difference; the ethyl alcohol molecule does not change when it is boiled, then condensed through the distillation process. This fact explains why the Board of Equalization cannot test a product to find out whether the alcohol in it was distilled or not. No such test exists.

Underage drinking is indeed a serious problem. I have been told that these flavored beers are easier to drink than other alcohol beverages, so they might be something that teenagers would favor as a gateway to drinking before they are legally permitted. But I have a problem with those who say it is worse for a product to contain distilled alcohol than non-distilled alcohol.

That leads me to my point. Two weeks ago Anheuser-Busch announced they would no longer make a flavored malt beverage called Spykes, which has the highest alcohol content I have seen for a flavored beer: 7%. The reason? Parents and activists complained that the product is too attractive to underage drinkers and it was not selling very well. Thus, the market is addressing a problem that some prefer using litigation and nanny government to solve.

I prefer the market solution, and you should too.

### **\*\*\*Some Perspective on Global Priorities\*\*\***

Going to the Memorial Day benefit for the fight against Hepatitis-B raised my awareness of the huge worldwide threats to public health that are out there. It reminded me of an article I read in the April 22 World magazine about Danish academic Bjorn Lomborg. Lomborg founded a group called the Copenhagen Consensus, which identifies the world's toughest problems and analyzes them from the perspective of economics in order to find ways to help the most people with the least economic harm. Not surprisingly, opportunities to counter climate change ranked dead last. Under their analysis, the Kyoto Protocol would cost the U.S. \$160 billion a year for very little measurable benefit. In contrast, the Copenhagen group cites UNICEF's estimate that \$70-\$80 billion a year could give the entire undeveloped world access to clean water, education and basic sanitation. The group lists four opportunities to help millions of people with solutions that are attainable and cost effective. These are: Control of HIV/AIDS, providing micronutrients to the undernourished, trade liberalization, and control of malaria.

Global warming reversal opportunities are ranked 15 through 17 on a list of 17 items.

The Copenhagen Consensus site is here:

<http://www.copenhagenconsensus.com/Default.aspx?ID=788>

## **MISCELLANY**

### **\*\*\*A Good Read\*\*\***

According to Wikipedia, the four color theorem (also known as the four color map theorem) states that given any plane separated into regions, such as a political map of the states of a country, the regions may be colored using no more than four colors in such a way that no two adjacent regions receive the same color. Two regions are called adjacent only if they share a border segment, not just a point (so the U.S. states of Utah and New Mexico are not deemed adjacent, even though they meet at the Four Corners). Each region must be contiguous: that is, it may not consist of separate sections like such real countries as Angola, Azerbaijan, and the United States. It is often the case that using only three colors is inadequate. This applies already to the map with one region surrounded by three other regions (even though with an even number of surrounding countries three colors are enough) and it is not at all difficult to prove that five colors are sufficient to color a map.

In *Four Colors Suffice: How the Map Problem Was Solved*, Robin Wilson shows how the four color theorem was finally proven in 1976, over 120 years after its initial presentation in 1852. The proof broke new ground in that it was the first to rely extensively on computer analysis, which was very controversial then but markedly less so now. The problem was unusual in that an initial proof in 1878 was found to be incorrect 11 years after being accepted, thus achieving singular distinction and some notoriety for the problem. But in many other regards the proof is typical of scientific progress in that the problem is attacked over time from different perspectives and successive attempts often build on the works of predecessors. Wilson's account is fairly comprehensive but does not require any more of the reader than a basic familiarity with mathematics and logic and an interest in the way problems are solved and innovators think.

## **BOE AND LEGISLATIVE DATES**

**June 8, 2007** --- Last day to pass bills out of house of origin (J.R. 61(a)(8)).

**June 15, 2007** --- Budget Bill must be passed by midnight (Art. IV, Sec. 12(c)).

**June 19-21, 2007** --- Board of Equalization meets in Culver City.

**July 4, 2007** --- Independence Day.

**July 13, 2007** --- Last day for policy committees to hear and report bills (J.R. 61(a)(10)).

**July 17-18, 2007** --- Board of Equalization meets in Sacramento.

**July 20, 2007** --- Summer Recess begins on adjournment, provided Budget Bill has been passed (J.R. 51(a)(3)).

**August 14-15, 2007** --- Board of Equalization meets in Sacramento.

**August 20, 2007** --- Legislature reconvenes from Summer Recess (J.R. 51 (a)(3)).

**September 3, 2007** --- Labor Day.

**September 7, 2007** --- Last day to amend on the Floor (J.R. 61(a)(13), A.R. 69(e)).

## **NOTABLE DATES/ HISTORY**

**June 4, 1942** --- Near the Midway Islands in the Pacific Ocean, American and Japanese forces began fighting the three-day Battle of Midway. The American victory halted Japan's eastward push.

**June 4, 1989** --- The Chinese army ended months of student-led pro-democracy demonstrations in Beijing's Tiananmen Square.

**June 5, 1947** --- U.S. Secretary of State General George C. Marshall called for a U.S.-funded European Recovery Program (which came to be known as the Marshall Plan) to help countries in European recover from World War II.

**June 5, 1968** --- On the night he won the California Democratic presidential primary, Robert F. Kennedy was shot by Sirhan Sirhan in Los Angeles, dying of his wounds the next day.

**June 6, 1884** --- The group of Republican Party dissidents known as the Mugwumps left the party's convention, refusing to support its nominee for president, James G. Blaine.

**June 6, 1932** --- The federal gas tax was enacted.

**June 6, 1944** --- D-Day: the largest seaborne invasion in history, landed 120,000 Allied troops on the beaches of Normandy in German-occupied northern France.

**June 6, 1978** --- California voters approved Proposition 13, cutting California property taxes by 57%.

**June 7, 1892** --- Homer Plessy, a Louisiana man of mixed black and white ancestry, took a seat in a white-only train car. This led to the Supreme Court decision in the case *Plessy v. Ferguson*, which upheld segregation thus adding to the long list of cases where the Court got it wrong.

**June 8, 1978** --- A Nevada jury decided that Howard Hughes's will that left his fortune to a medical institute, four universities and several individuals, was a forgery.

**June 10, 1776** --- The Continental Congress appointed Thomas Jefferson, Benjamin Franklin, John Adams, Roger Sherman, and Robert R. Livingston to draft a declaration of independence from Britain for the Congress to consider.

**June 9, 1954** --- During the televised McCarthy hearings, Army Counsel Joseph Welch asked Senator McCarthy, "Have you no sense of decency, sir?"

**June 10, 1943** --- President Franklin Roosevelt signed into law a bill authorizing withholding of U.S. income taxes.

## **GENERAL TAX INFORMATION**

For answers to your general tax questions, call the Board of Equalization information center. Customer service representatives are available to help you from 8:00 a.m. to 5:00 p.m. Pacific time, Monday through Friday (except state holidays).

Toll-free number: 800-400-7115  
TDD service for the hearing impaired  
TDD phones: 800-735-2929  
Voice phones: 800-735-2922

To reach the Taxpayer Rights Advocate's office for assistance with any BOE issues, see <http://www.boe.ca.gov/tra/tra.htm>, or call toll-free 1-888-324-2798.

## **HOW TO CONTACT ME**

Bill Leonard, Member  
State Board of Equalization, Second District  
Email: [bill.leonard@boe.ca.gov](mailto:bill.leonard@boe.ca.gov)

Northern California Office:

400 Capitol Mall, Suite 2340  
Sacramento, CA 95814  
Telephone: (916) 445-2181  
Fax: (916) 327-4003

Southern California Office:  
4295 E. Jurupa Ave., Ste. 204  
Ontario, CA 91761-1428  
Telephone: (909) 937-6106  
Fax: (909) 937-7044